

Application No.: 10/751,233

Docket No.: 10017979-2

REMARKS

The issues raised in the Final Office Action are as follows:

- Claims 1-8 stand rejected under 35 U.S.C. 102(b) as anticipated by McIntyre, U.S. Pat. No. 4,097,012 (hereinafter *McIntyre*); and
- Claims 1-8 stand rejected under the judicially created doctrine of obviousness-type double patenting.

Applicant hereby traverses the outstanding rejections of the claims, and request reconsideration and withdrawal of the outstanding rejections in light of the amendment and remarks contained herein. Claim 1 is amended above for purposes of clarification. No new matter has been added by this amendment. Specifically, in independent claim 1, the phrase "said second assembly not including any elements of said first assembly" has been added to claim 1. Support for this amendment may be found at least in FIGURE 1 and 2 and paragraph [0018] of the present specification. Claims 1-8 remain pending in this application.

I. Applicant's Record Under § 713.04 of Telephone Interview With Examiner

Applicant respectfully submits the following record of the telephone interview of December 15, 2004, under M.P.E.P. § 713.04. The following persons participated in the interview: Examiner Ryan M. Flandro and Applicant's attorney, Jerry L. Mahurin, Registration Number 34,661. Claim 1 was discussed in reference to *McIntyre*. The possibility of making the above amendment to claim 1 was discussed and the Examiner indicated that he would consider whether the amendment may be entered upon submission of an AF response.

II. Rejection under 35 U.S.C. §102(b)

Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by *McIntyre*. In light of the above amendment to claim 1, Applicant respectfully traverses this rejection for at least the reasons advanced below.

Application No.: 10/751,233

Docket No.: 10017979-2

The cited reference does not teach all claimed limitations.

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for an applied reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Applicant respectfully asserts that the rejection does not satisfy at least these requirements with respect to claim 1, as amended.

Independent claim 1, as amended, recites "a first mount bracket rotatably attached to a first assembly" and "a second mount bracket rotatably attached to a second assembly, said second assembly not including any elements of said first assembly." *McIntyre* does not disclose at least this limitation.

Without conceding that other elements of present claim 1 are taught or suggested by *McIntyre*, Applicant respectfully contends that *McIntyre* fails to teach or suggest a second assembly that does not include any elements of a first assembly, as recited by amended claim 1. Therefore, Applicant respectfully asserts that for at least the above reason independent claim 1 is patentable over the 35 U.S.C. §102 rejection of record.

Claims 2 through 8 ultimately depend from base independent claim 1, and thus inherit all limitations of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2 through 8 set forth features and limitations not disclosed by *McIntyre*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2-8 are patentable over the 35 U.S.C. §102 rejection of record.

III. Double Patenting

Claims 1-8 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent 6,672,787. Since the scope of allowable claims in this case has not yet been resolved, Applicant feels it would be inappropriate to file a terminal disclaimer at this time. Therefore, Applicant will attend to the administrative matter of filing a terminal disclaimer upon an indication of allowance of the claims in the present application.

Application No.: 10/751,233

Docket No.: 10017979-2

IV. Conclusion

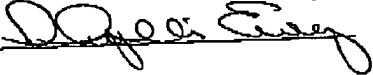
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to issue a Notice of Allowance in this case.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-2025, under Order No. 10017979-2, from which the undersigned is authorized to draw. The Examiner is respectfully encouraged to call the below-named attorney if he can be of assistance in expediting prosecution of the present application.

I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office via Facsimile Number (703) 872-9306.

Date of Transmission: Dec. 17, 2004

Typed Name: Phyllis Ewing

Signature: 

Respectfully submitted,

By: 

Jerry L. Mahurin

Attorney/Agent for Applicant(s)

Reg. No. 34,661

Date: December 17, 2004

Telephone No. (214) 855-8386

PTO/SB/97 (09-04)

Approved for use through 07/31/2006. OMB 0851-0031

U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

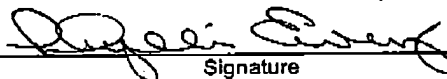
Application No. : 10/751,233

Attorney Docket No.: 10017979-2

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office.

on December 17, 2004
Date



Signature

Phyllis Ewing

Typed or printed name of person signing Certificate

Registration Number, if applicable

(214) 855-8000

Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Transmittal - 1 page

Amendment AF - 6 pages

Certificate of Transmission - 1 page

25484246.1

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.